DISTRICT OF COLUMBIA HOUSING AUTHORITY

NOTICE OF FINAL RULEMAKING

The Board of Commissioners of the District of Columbia Housing Authority (pursuant to D.C. Official Code § 6-203(3), D.C. Law 13-105 and The District of Columbia Housing Authority Act of 1999) hereby gives notice of the adoption of an amendment to Section 7136, (Rules and Conditions), of Chapter 71, District of Columbia Housing Authority (DCHA) Personnel Policy and Procedure Manual of Title 14 DCMR Housing. The existing regulation, Subsection 7136.2, prohibits all DCHA employees from buying homes from DCHA's redevelopment portfolio, regardless of their employment position or responsibilities. This amendment will address this disparity and allow the Executive Director to examine conflicts of interest on a case by case basis. Final action to adopt this rule was taken at the Board of Commissioners regular meeting on September 12, 2007. Notice of Proposed Rulemaking was published on May 25, 2007 (54 DCR 5312). No changes were made to the text as published under the Notice of Proposed Rulemaking. Subsection 7136.2 is superceded by the new rule printed below; this final rule will be effective upon publication of this Notice in the D.C. Register.

CHAPTER 71 DISTRICT OF COLUMBIA HOUSING AUTHORITY (DCHA) PERSONNEL POLICY AND PROCEDURE MANUAL

7136 RULES AND CONDITIONS

7136.2 No employee shall knowingly have an interest, direct or indirect, in any property included or planned to be included in any project of the Authority; nor knowingly have any interest, direct or indirect, in any contract or proposed contract for materials or services to be used by the Authority except as may be authorized by the Executive Director. If such interest was acquired prior to employment, or if knowledge of such interest is subsequent to employment, the employee shall disclose the same in writing to the Authority. An employee shall not benefit financially by reason of the activities of the Authority with outside parties.

DISTRICT OF COLUMBIA HOUSING AUTHORITY

NOTICE OF FINAL RULEMAKING

The Board of Commissioners of the District of Columbia Housing Authority (pursuant to D.C. Official Code § 6-203(3), D.C. Law 13-105, The District of Columbia Housing Authority Act of 1999) hereby gives notice of the adoption of Chapter 84 to Title 14 DCMR, Rental Subsidy Programs: Certifications. This new chapter governs certification and recertification in the DCHA's Housing Choice Voucher Program, as well as other rent subsidy programs. Final action to adopt these rules was taken at the Board of Commissioners regular meeting on September 12, 2007. Notice of Proposed Rulemaking was published on May 18, 2007 (54 DCR 5029). An Erratum was published on July 13, 2007 (54 DCR 6749) and a second Erratum was published on September 7, 2007 (54 DCR 8828). Based on comments from the public, some changes have been made. Minor, but not substantial changes were made to the text of the proposed rules as published under the notice of proposed rulemaking. These final rules will be effective upon publication of this notice in the D.C. Register.

CHAPTER 84 RENT SUBSIDY PROGRAMS: CERTIFICATIONS

8400 INTRODUCTION TO CERTIFICATION
8401 INITIAL CERTIFICATION
8402 SUITABILITY SCREENING
8403 REGULAR PERIODIC RECERTIFICATION
8404 INTERIM RECERTIFICATION
8405 TIMELY REPORTING AND CHANGES TO TOTAL TENANT PAYMENT
8406 TIMING OF NEXT RECERTIFICATION
8407 CHANGE IN TOTAL TENANT PAYMENT AFTER REGULAR OR INTERIM RECERTIFICATION
8408 THIRD PARTY VERIFICATION FOR ALL CERTIFICATIONS
8409 RELEASE OF RECORDS OR OTHER INFORMATION FOR ALL REPORTING AND RECERTIFICATIONS

8400 INTRODUCTION TO CERTIFICATION

8400.1 DCHA's rent subsidy programs are all predicated on supplementing the rent a Family of a certain size and gender composition can pay based on their Annual Income, adjusted for certain deductions and allowances, by paying a subsidy directly to the Owner. Certification of household income and family composition is critical to the accurate payment of the subsidy the Family is entitled to under the rules of each particular rent subsidy program. Unless otherwise noted in this Chapter or other Chapters about special housing programs in this Title 14, the certification and recertification of income and household composition is conducted under the provisions of this Title.

8400.2 There are four (4) types of certifications addressed herein below:

(a) Initial certification at the time a voucher is initially issued;

(b) Regular, periodic recertification, typically biennially, to ask the Family to certify and verify their income and household composition;

(c) Transfer certification that occurs when a Family requests a transfer voucher under the portability or move provisions of the Administration Plan adopted pursuant to 24 CFR § 982.54; and

(d) Interim change recertification when the Family reports a change in between the periodic recertifications.

8401 INITIAL CERTIFICATION

8401.1 To be eligible to participate in a DCHA rent subsidy program, an Applicant must meet certain criteria as set forth in Chapter 61 of this Title, including, but not limited to, the following:

(a) Income limits;

(b) Provision of Social Security Numbers;

(c) Family composition information;

(d) Clearance of outstanding debts to DCHA or other Public Housing authorities; and

(e) Criminal background checks.

8401.2 The Applicant must meet the initial certification requirements qualifying as a Family as follows:

(a) Two (2) or more persons sharing residency whose income and resources are available to meet the Family's needs and who are related or have evidence of a stable family relationship, such as:

(i) Child together by birth, adoption or legal guardianship documentation;

(ii) Joint tax returns;

(iii) Joint prior lease; or

(iv) Joint bank accounts, insurance policies or utility bills.

(b) A single person, who is:

(i) Expecting a child, even if she is no longer carrying a child at the time of voucher issuance or lease up;

(ii) Sixty-two (62) years of age or older;

(iii) Disabled with a physical impairment which is expected to be of long continued and indefinite duration which substantially impedes, but does not prohibit the ability, to live independently;

(iv) Disabled within the meaning of the Social Security or Developmentally Disabled Acts; or

(v) Displaced due to a declared disaster and not living in standard replacement housing.

(c) A live-in aide who has been approved as a Reasonable Accommodation in accordance with the provisions of Chapter 74 of this Title, but whose income is not counted for purposes of determining eligibility or total tenant payment.

(d) The household composition, as reported and verified in accordance with the provisions of the Title, is the basis for the initial certification and calculation of total tenant payment by the Family and housing assistance payment to the owner.

8401.3 The income of Families in the rent subsidy programs is subject to the following restrictions:

(a) Certification for admission to the program is based on the unadjusted Annual Income of the household before any deductions or allowances;

(b) Except for certain special rental housing assistance programs, the unadjusted Annual Income may not exceed the low income limit of fifty percent (50%) of area median income established by HUD annually and published in the Federal Register for the family size;

(c) For the Housing Choice Voucher Program, at least seventy percent (70%) of the participants in the program may not exceed the very low income limit of thirty percent (30%) of area median income established by HUD annually and published in the Federal Register by family size in the same way;

(d) Changes to Annual Income that exceed such limits after issuance of a voucher or during participation in the program are not a basis for termination from a rent subsidy program; and

(e) Notwithstanding the provisions in (d) above, participants whose Annual Income exceeds the initial income limits, are subject to reporting such increase and an adjustment of subsidy at that time as well as at regular and interim reexaminations which can result in adjustments to the amount of subsidy provided to the Family.

8401.4 In order to calculate the amount of the Tenant Payment, the amount of the housing assistance payment subsidy for the owner, the Family's income must be reported and verified as well as any allowances or deductions as required at the time of initial certification.

8401.5 In certain special types of rent subsidy programs, as may be specified in other Chapters of this Title, the annual adjusted income of the household may be permitted to be up to eighty percent (80%) of the area median income as determined from time to time by the HUD.

8402 SUITABILITY SCREENING

8402.1 In addition to the eligibility and certification requirements summarized above, other factors which relate to the suitability of an Applicant Family as Tenants may be applied by an Owner, provided the factors are reasonably related to tenancy and are used to screen all Applicants for the owner's units, whether or not the Applicant is a participant in a DCHA rent subsidy program.

8402.2 The screening factors an owner may use include such factors as:

(a) Prior rent paying history;

(b) Credit bureau reports of credit history;

(c) Outstanding debts to previous landlords;

(d) History of damage to rental properties or housekeeping generally;

(e) Police records from any jurisdiction within any time period of lease application; and

(f) Employment.

8403 REGULAR PERIODIC RECERTIFICATION

8403.1 Regular recertifications are conducted of family composition, income, allowances and deductions by DCHA on a biennial basis or such other basis as may be announced in the District of Columbia Municipal Register from time to time.

8403.2 Income limits are not used as a test for continued eligibility at recertification.

8404 INTERIM RECERTIFICATIONS

8404.1 An interim recertification of any Participant family's composition, income, allowances and deductions, may be conducted at the election of DCHA at any time following an initial or regular recertification as follows:

(a) A Family is subject, upon notice thereof, to recertification if DCHA has any reason to believe that inaccurate, false or incomplete information or verifications have been provided; or

(b) Families reporting zero ($0) Annual Income or whose income cannot be projected with any reasonable degree of accuracy are subject to recertification every ninety (90) Days upon notice thereof by DCHA.

8404.2 As any changes to household composition and income, allowances or deductions, are likely to result in an increase or decrease in rental subsidy provided for under the program, the Family must report such changes in the times and with the effect on subsidy payments as set forth in the Administrative Plan adopted pursuant to 24 CFR § 982.54

8404.3 Families are required to report any increase in household income from wages or assets to DCHA.

8404.4 Families may report a decrease in household income or other changes such as increases in allowances or deductions which would reduce the amount of Tenant rent.

8404.5 Families are required to report the following changes in family composition.

(a) A member has been added to the Family through birth, adoption or court-awarded custody or any other kinship arrangement that is verifiable by a third party organization or governmental entity;

(b) A household member is leaving, on a more than temporary basis as identified in the Administrative Plan adopted pursuant to 24 CFR § 982.54, or has left the family unit due to family break-up, death, establishing their own family unit, or any other reason;

(c) The elderly or disability status of a household member has changed, or a household member other than a spouse of Head of Household is a Full Time Student; and

(d) Any other change in status by an existing member of the household composition that would modify the determination of Tenant Payment.

8405 TIMELY REPORTING AND CHANGES TO TOTAL TENANT PAYMENT

8405.1 The following are the reporting requirements for changes to income:

(a) The Family must report any change in income or assets within thirty (30) Days of when the change occurs; and

(b) Documentation of the changes must be provided at the recertification appointment or within ten (10) Days of request therefore. Any requested documentation that is not received within ten (10) Days shall be considered untimely and may result in a notice of proposed termination.

8405.2 The following are the reporting requirements for changes to family composition:

(a) All changes in family composition are required to be reported:

(i) If a minor, within thirty (30) calendar Days of its occurrence, and

(ii) In the case of an adult, the change is required to be reported prior to the adult's addition to the household;

(b) If the unit is overcrowded due to a family composition change (the Family is under-housed) a Family being assisted under a tenant-based program may request a voucher to move in accordance with the provisions of Chapter 85 hereof and the Family will be issued a transfer voucher;

(c) If the Family is over-housed due to a reduction in family composition, the Family may elect to request a transfer voucher and move to an appropriately sized unit, or the Family may remain in the unit and pay the difference in the rent owed, as the subsidy will be continued on the basis of the smaller family size; and

(d) If the Family does not locate a suitable unit that is either larger or smaller than their present unit, and the Family's transfer voucher expires, the Family may remain in the unit, and the subsidy will be based on the lesser of the unit occupied or the new family composition and size.

8405.3 All increases in Tenant Payment and reductions in housing assistance payments based on changes in the family's adjusted Annual Income are effective on the first of the month following the thirty (30) Days notice to Family and Owner. All decreases in Tenant Payment and increases in housing assistance payments are effective the first of the month after the change is reported.

8405.4 If the Family does not report the change in income or family composition within the thirty (30) Days as required hereinabove, the Family will be determined to

have caused an unreasonable delay in the interim recertification. If the change is not reported timely and the change results in an increase in the family share (Tenant Rent), then:

(a) The increase in Tenant Rent will be effective as of the first of the month following the change;

(b) Any excess housing assistance payment subsidy already paid to owner based on a lower Tenant Payment based on the size of the household or lower adjusted Annual Income will be charged to the owner;

(c) Any excess housing assistance payment due to a failure to report a smaller household size will be calculated by taking the larger household size payment standard and subtracting the smaller household size payment standard for calculating the Tenant Payment portion and multiplying the difference times the number of months that the Tenant Payment was based on the incorrect family composition; and

(d) Any excess housing assistant payment due to a failure to properly report additional adjusted Annual Income will be determined using the adjusted Annual Income back to the first of the month following the date the change should have been reported.

8405.5 If the Family timely reports a change, the change goes in to effect at the later of:

(a) The first day of the month following the report of the change; or

(b) The first of the month that is thirty (30) Days after DCHA provides written notice to the Family and Owner.

8405.6 Decreases to Tenant Payment that result in an overpayment by the participant will be calculated retroactively to the date the change should have been effective and a check will be sent to the Family.

8406 TIMING OF NEXT RECERTIFICATION

8406.1 In the event there is an interim adjustment to the Total Tenant Payment following the report of a change in income, allowances, deductions or family composition, that is made less than six (6) months before the regularly scheduled recertification, such regularly scheduled recertification will be skipped and the next regular recertification will be the next biennial recertification.

8407 CHANGE IN TOTAL TENANT PAYMENT AFTER REGULAR OR INTERIM RECERTIFICATION

8407.1 The HUD Form 50058 will be completed and transmitted as required by HUD. The completion and transmission of such form has no affect on payments or DCHA's obligations to make payments in accordance with the provisions of this Chapter.

8407.2 A notice of change in Tenant Payment and payment to owner is sent to the owner and the participant thirty (30) Days prior to the implementation of the change as follows:

(a) Notices that increase the required Tenant Payment shall be mailed at least thirty (30) Days before the first of the month that an increase in Tenant Payment goes in to effect;

(b) Signatures of the participant and owner are not required. Participants may not waive the thirty (30) Day written notice for an increase in Tenant Payment;

(c) A form showing the calculation of the new Tenant Payment is mailed with the notice; and

(d) If the participant disagrees with the change in Tenant Payment, they may file a grievance in accordance with the provisions of Chapter 89 of this title.

8408 THIRD PARTY VERIFICATION FOR ALL CERTIFICATIONS

8408.1 In order to determine the adjusted Annual Income of any Participant family either upon initial certification or upon any examination as set forth in this Chapter, and except as otherwise provided in the Administrative Plan, adopted pursuant to 24 CFR § 982.54, the DCHA is required to obtain and retain in the file of each Family, documentation which provides third party verification of the following:

(a) Annual Income of the Participant family;

(b) The value of the household's assets;

(c) Allowances or deductions from Annual Income; and

(d) Other factors affecting adjusted Annual Income as required in this Title or the requirements, guidelines or notices published by HUD from time to time.

8408.2 If third party verification is not complete or available for income or assets, DCHA must document the efforts made to obtain such verification. Income can be included without verification. Deductions, allowances or other factors affecting adjusted gross income are not allowed without third party verification.

8408.3 Verifications may be required, at the discretion of DCHA, more frequently than annually for certain types of certifications, such as a self-certification of zero ($0) Annual Income for the household.

8408.4 DCHA allows ten (10) business Days for the return of third party verifications or any Participant family documents or certifications.

8408.5 Verifications may not be more than one hundred twenty (120) Days old at the time a voucher is issued.

8408.6 Income information provided by the Family will be verified using the HUD approved Upfront Income Verification method (UIV). This includes verification from HUD's computerized Enterprise Income Verification System, similar District of Columbia government computer based systems and non-government web based systems. Family provided income information will be verified as follows:

(a) In the event the Family provided income information is verified by the UIV method no further verification is required;

(b) In the event the Family provided income information is substantially different (variance of more then two hundred dollars ($200.00) per month), the family disputes the UIV data or additional information is required, the following hierarchy of verification methods will be followed:

(i) Written third party verification;

(ii) Oral third party verification;

(iii) Family provided documentation; or

(iv) Family declaration under oath; and

(c) Verification of required family information concerning assets, Full Time Student status, medical expenses, requests for larger units, preference status, and zero ($0) income status shall be obtained by written third party verification. If the written third party verification is unobtainable after diligent efforts by DCHA then the hierarchy in (b)(ii), (iii) and (iv) of this Subsection shall be followed.

8409 RELEASE OF RECORDS OR OTHER INFORMATION FOR ALL REPORTING AND RECERTIFICATIONS

8409.1 Each family member over eighteen (18) will be required to execute an authorization for the information sources to release records to DCHA.

8409.2 The release will cover all sources of information, included and not limited to the information included in HUD's Form 9886, "Authorization for Release of Information/Privacy Act Notice."

8409.3 A release by each covered family member must be executed and updated at every recertification, whether initial, interim or periodic.

8409.4 Refusal of any member of the Participant family to supply any information, sign consent or release forms, or otherwise cooperate with the verification requirements of the program shall result in denial of admission or termination of assistance for the Family.

8409.5 Termination or denial of assistance is subject to review or informal hearing as provided for in Chapter 89 of this Title.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA
1333 H STREET, N.W., SUITE 200, WEST TOWER
WASHINGTON, DC 20005

NOTICE OF FINAL RULEMAKING

FORMAL CASE NO. 982, IN THE MATTER OF THE INVESTIGATION OF POTOMAC ELECTRIC POWER COMPANY REGARDING INTERRUPTION TO ELECTRIC ENERGY SERVICE;

AND

FORMAL CASE NO. 1002, IN THE MATTER OF THE JOINT APPLICATION OF PEPCO AND THE NEW RC, INC. FOR AUTHORIZATION AND APPROVAL OF MERGER TRANSACTION

1. The Public Service Commission of the District of Columbia ("Commission") hereby gives notice, pursuant to Section 2-505 of the District of Columbia Official Code,[1] of its final rulemaking action taken in the above-captioned proceeding.

2. On May 4, 2007, the Commission issued a Notice of Proposed Rulemaking ("NOPR"),[2] noticing its intent to adopt Chapter 36, Electricity Quality of Service Standards ("EQSS"), in Title 15 of the District of Columbia Municipal Regulations. The EQSS combine previous Commission-approved standards with newly proposed standards.[3] In addition, the EQSS incorporate the terms of Section 34-401 of the District of Columbia Official Code.[4] The EQSS serve to establish standards and requirements for ensuring that the electric utility operating in the District of Columbia meet an adequate level of quality and reliability in the electricity service provided to District of Columbia residents.

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1 D. C. Official Code, 2001 Ed. § 2-505.

2 54 *D.C. Register* 4190-4204 (May 4, 2007).

3 The EQSS codifies for publication in the D.C. Register the previously Commission-approved "Service Outage and Restoration Performance Standards for Reports to the District of Columbia Public Service Commission" ("Reporting Standards") and the interim standards for customer service and system reliability – "Customer Service and Reliability Standards" ("CSRS"), as well as new electricity service quality standards discussed further herein.

4 D.C. Official Code § 34-401, "Utilities to report accidents; Commission may investigate" (requiring public utilities to notify and report to both the Public Service Commission and the Office of the People's Counsel whenever there is an incident resulting in loss of human life, personal injury requiring hospitalization, or significant service interruption).

3. Following the NOPR comment period, on July 27, 2007, the Commission published in the *D.C. Register* an amended Notice of Proposed Rulemaking ("Amended NOPR"), which superseded the initial NOPR. The Amended NOPR incorporated comments received on the initial NOPR as found appropriate, and amended the proposal to include a new Section 3604 concerning billing error notifications. Comments and reply comments on the Amended NOPR were filed by the Office of People's Counsel of the District of Columbia and the Potomac Electric Power Company. The Commission has carefully considered all of the comments and may issue a clarifying NOPR on the EQSS, based on those comments, at a later date. The following EQSS will become effective upon the date of publication of this Notice of Final Rulemaking in the *D.C. Register*:

CHAPTER 36 ELECTRICITY QUALITY OF SERVICE STANDARDS

Secs.

3600 Purpose and Applicability
3601 Reporting Requirements for Service Outages, Manhole Incidents, and Power Quality Complaints
3602 Customer Service Standards
3603 Reliability Standards
3604 Billing Error Notification
3699 Definitions

3600 PURPOSE AND APPLICABILITY

3600.1 The purpose of this chapter is to establish standards and requirements for ensuring that an electric utility operating in the District of Columbia meets an adequate level of quality and reliability in the electricity service provided to District of Columbia customers.

3600.2 This chapter shall apply to an electric utility company operating in the District of Columbia, subject to the authority of the Public Service Commission.

3601 REPORTING REQUIREMENTS FOR SERVICE OUTAGES, MANHOLE INCIDENTS, AND POWER QUALITY COMPLAINTS

3601.1 The electric utility shall report all major and non-major electricity service outages and manhole incidents, as well as incidents known to the electric utility that result in the loss of human life, personal injury requiring hospitalization, or service disruption directly or indirectly arising from or connected with the electric utility's maintenance or operation, that occur on the electric system within the District of Columbia to the Public

Service Commission of the District of Columbia and to the Office of the People's Counsel of the District of Columbia.

3601.2 Upon notice of the incident, all major service outages shall be reported by telephone to the Public Service Commission's Office of Engineering and to the Office of the People's Counsel as soon as practicable, but not later than one (1) hour after the utility has determined a major service outage had occurred.

3601.3 At a minimum, each telephone report rendered by the utility subsequent to a major service outage shall state clearly the following information:

(a) The location of the service outage(s);

(b) The Ward(s) where the service outage(s) occurred;

(c) The total number of customers out of service;

(d) A preliminary assessment as to the cause of the service outage(s);

(e) The estimated repair and/or restoration time; and

(f) A notification that the incident has progressed to major service outage status as defined herein.

3601.4 During the course of a major service outage, the utility shall report periodically to the Public Service Commission's Office of Engineering regarding the status of the service outage and the utility's progress in restoration efforts. The frequency of such periodic updates to the Office of Engineering shall be jointly determined by the utility and the Office of Engineering at the start of the service outage and/or as modified during the course of the service outage. At a minimum, the utility shall provide an update to the Office of Engineering and to the Office of the People's Counsel prior to making any changes to its estimated restoration time.

3601.5 Specific restoration information, including estimated restoration times, shall be provided to District of Columbia customers by the utility's customer service representatives and by the utility's automated voice response unit.

3601.6 The utility shall report non-major service outages by telephone to the Public Service Commission's Office of Engineering and the Office of the People's Counsel as soon as practicable upon notice of the incident, but no later than one (1) hour after the utility becomes aware of the incident.

3601.7 Notwithstanding the above:

(a) The utility shall report a single customer service outage of more than eight (8) hours only upon verification that the service outage was caused by some event on the utility's side of the customer's meter; and

(b) No report need be filed if the single customer service outage was caused by some event on the customer's side of the meter.

3601.8 At a minimum, each telephone report concerning a non-major service outage shall state clearly the following information:

(a) The location of the service outage(s);

(b) The Ward(s) where the service outage(s) occurred;

(c) The total number of customers out of service;

(d) A preliminary assessment as to the cause of the service outage(s); and

(e) The estimated repair and/or restoration time.

3601.9 The utility shall report by telephone all manhole incidents, including smoking manholes, manhole fires, and manhole explosions, to the Commission's Office of Engineering and the Office of the People's Counsel within thirty (30) minutes upon receiving notice of the incident.

3601.10 At a minimum, each telephone report concerning a manhole incident shall state clearly the following information:

(a) The location of the incident(s);

(b) The Ward(s) where the incident(s) occurred;

(c) The total number of customers out of service;

(d) A preliminary assessment as to the cause of the incident(s); and

(e) The estimated repair and/or restoration time.

3601.11 The utility shall report by telephone all incidents that result in the loss of human life and/or personal injury requiring hospitalization, directly or indirectly arising from or connected with the electric utility's maintenance or operation, to the Commission's Office of Engineering and the Office of

the People's Counsel within thirty (30) minutes upon receiving notice of the incident.

3601.12 At a minimum, each telephone report concerning the loss of human life and/or personal injury requiring hospitalization shall state clearly the following information:

(a) The location of the incident(s);

(b) The Ward(s) where the incident(s) occurred;

(c) The total number of customers and/or persons affected;

(d) A preliminary assessment as to the cause of the incident(s); and

(e) The steps the electric utility will take to provide assistance.

3601.13 A written report concerning all non-major service outages and/or manhole incidents shall be submitted to the Commission and the Office of People's Counsel within five (5) days of the event occurrence.

3601.14 At a minimum, each written report concerning non-major service outages and/or manhole incidents shall state clearly the following information as applicable to the given incident:

(a) A description of the service outage(s) and/or incident(s) and information as to the cause of the event(s);

(b) The location of the service outage(s) and/or incident(s);

(c) The Ward(s) where the service outage(s) or incident(s) occurred;

(d) The exact time of the service outage(s) or incident(s) occurrence;

(e) The actual repair and restoration times of the service outage(s) and/or incident(s);

(f) The duration of the service outage(s) and/or incident(s) in hours and minutes;

(g) The total number of customers affected by the service outage(s) and/ or incident(s);

(h) The number of manholes involved in the incident(s); and

(i) The classification of the manhole incident(s).

3601.15 Written reports concerning all incidents that result in the loss of human life and/or personal injury requiring hospitalization, directly or indirectly arising from or connected with the electric utility's maintenance or operation, shall be submitted to the Commission's Office of Engineering and the Office of the People's Counsel within five (5) days of receiving notice of the incident.

3601.16 At a minimum, each written report concerning the loss of human life and/or personal injury requiring hospitalization shall state clearly the following information:

(a) A description of the incident(s) and information as to the cause of the event(s);

(b) The location of the incident(s);

(c) The Ward(s) where the incident(s) occurred;

(d) The exact time of the incident(s) occurrence;

(e) The total number of customers and/or persons affected;

(f) The steps the electric utility took to provide assistance;

(g) The amount of time it took for assistance to arrive (if known); and

(h) The steps the electric utility will undertake to prevent such an occurrence in the future.

3601.17 The utility shall provide a detailed report on all non-major service outages, manhole incidents, and/or incidents that result in the loss of human life and/or personal injury requiring hospitalization, to the Productivity Improvement Working Group ("PIWG") every quarter.

3601.18 The utility shall file a written report concerning all major service outages with the Public Service Commission and the Office of People's Counsel within three (3) weeks following the end of a major service outage.

3601.19 At a minimum, each written report concerning a major service outage shall state clearly the following information:

(a) The date and time when the major service outage started, and the date and time when the major service outage ended;

(b) The date and time when the restoration effort started, and the date and time when the restoration effort ended;

(c) The date and time when the maximum number of customers were experiencing a sustained interruption and the total number of customers affected at that time (both on a system-wide basis and for the District of Columbia only);

(d) The total number of customers that experienced a sustained interruption given in one hour intervals throughout the major service outage (both on a system-wide basis and for the District of Columbia only);

(e) The total number of customer interruption durations (converted into hours) during the major service outage (both on a system-wide basis and for the District of Columbia only);

(f) Any information concerning requests made for outside assistance, including the organization(s) to which such requests were made, the date and time of the requests, and the resources requested;

(g) Any information concerning outside assistance received, including the organization(s) that provided personnel, the date(s) and time(s) of personnel arrivals and departures, the number of and types of vehicles provided, the total number of personnel received, the total number of personnel assigned to primary overhead line crews, the total number of personnel assigned to secondary overhead line crews, the total number of personnel assigned to tree trimming crews, the total number of personnel assigned to primary underground line crews, the total number of personnel assigned to secondary underground line crews, and the total number of personnel assigned to substation crews;

(h) Any information concerning the utility's own personnel and resources used in restoration efforts, including the total number and types of vehicles used, the total number of utility personnel involved in the restoration effort, the number of personnel assigned to primary overhead line crews, the total number of personnel assigned to secondary overhead line crews, the total number of personnel assigned to damage assessment crews, the total number of personnel assigned to tree trimming crews, the total number of personnel assigned to primary underground line crews, the total number of personnel assigned to secondary underground line crews, the total number of personnel assigned to substation crews, and the total number of personnel assigned to other supporting activities;

(i) Any information concerning customer communications, including the hourly call volumes (specifically identifying the total number of customer calls received and the total number of calls answered by the utility during each hour of the service outage), the hourly staffing numbers (specifically identifying the total number of customer service representatives logged into the call center and supporting phone systems actively taking or waiting to take customer calls), and the telephone service factor provided on an hourly basis during the entire duration of the service outage (specifically identifying the percentage of answered calls that were answered within a 60-second timeframe);

(j) The total number of customers interrupted and the customer interruption durations (converted into hours) caused by each of the following: fallen tree or tree limb, fallen or broken pole, lightning damage, ice accumulation on conductors, and any other major causes (both on a system-wide basis and for the District of Columbia only);

(k) The total number of each of the following occurring as part of the restoration efforts: the number of poles replaced, the number of distribution transformers replaced, the number of fuses replaced, the number of downed wires, the number and location of substations where equipment was damaged, the number of cross-arms issued for replacement, and the total length (in feet) of secondary and primary wires replaced or issued for replacement (both on a system-wide basis and for the District of Columbia only);

(l) Any issues concerning the availability of materials that affected restoration progress and a description of the emergency measures taken to resolve such issues;

(m) A self-assessment of the utility's restoration efforts in the District of Columbia;

(n) The total number of customers, and percent of all customers, restored given in one hour intervals throughout the major service outage restoration effort (both on a system-wide basis and for the District of Columbia only); and

(o) An analysis, based upon the availability of the data and all other surrounding circumstances, of the utility's performance in its current restoration efforts as compared to its past restoration efforts, taking into account all relevant factors, such as the severity

of the current major service outage in terms of the percent of customers affected on a system-wide or local basis.

3601.20 The utility shall submit a written report to the Commission on its Outage Management System's ("OMS") actual performance during the major service outage within thirty (30) days after restoration efforts are completed.

3601.21 The utility shall record the number of power quality complaints received, the types of complaints received, the results of any subsequent investigations and the corrective actions taken, and the time it took to resolve the customer's problem.

3601.22 Power quality problems shall include, but shall not be limited to, disturbances such as voltage spikes or transients, flicker and voltage sags, surges and short-time over-voltages, as well as harmonics and noise.

3601.23 The utility shall report on its Section 3601.21 records every six (6) months. The report shall be submitted to the Commission forty-five days following the reporting period, starting with the six (6) month reporting period following the EQSS' adoption in Title 15 of the District of Columbia Municipal Regulations (DCMR).

3601.24 The report submitted pursuant to Section 3601.23 shall exclude complaints resolved by the initial response of a trouble crew.

3602 CUSTOMER SERVICE STANDARDS

3602.1 The electric utility shall maintain a customer service (walk-in) office physically located in the District of Columbia.

3602.2 The electric utility shall answer seventy (70) percent of all customer phone calls received within thirty (30) seconds and shall maintain records delineating customer phone calls answered by a utility representative or an automated operator system. The electric utility shall measure and report on the average customer wait time of a customer transferred from an automated operator system to a utility representative.

3602.3 The utility's statistics concerning customer calls answered shall exclude calls made during periods of major telecommunication failures, periods of labor disruptions and periods of major service outage.

3602.4 If the utility fails to meet the Section 3602.2 standard, it shall be required to develop a corrective action plan.

3602.5 The corrective action plan shall describe the cause(s) of the utility's non-compliance with Section 3602.2, describe the corrective measure(s) to be taken to ensure that the standard is met or exceeded in the future, and set a target date for completion of the corrective measure(s).

3602.6 Progress on current corrective action plans shall be included in the utility's annual Productivity Improvement Plan (PIP) report.

3602.7 The utility shall report the actual call center performance during the reporting period in the annual PIP of the following year.

3602.8 The utility shall maintain a call abandonment rate below ten (10) percent.

3602.9 The utility's call abandonment statistics shall exclude calls made during periods of major telecommunication failures, periods of labor disruption and periods of major service outage.

3602.10 If the utility fails to meet the standard set in Section 3602.8, it shall be required to develop a corrective action plan.

3602.11 The corrective action plan shall describe the cause(s) of the utility's non-compliance with Section 3602.8, describe the corrective measure(s) to be taken to ensure that the standard is met or exceeded in the future, and set a target date for completion of the corrective measure(s).

3602.12 Progress on any current corrective action plans will be included in the utility's annual PIP report.

3602.13 The utility shall report the actual performance obtained during the reporting period in the annual PIP of the following year.

3602.14 The utility shall complete installation of new residential service requests within ten (10) business days of the start date for the new installation.

3602.15 The start date for new installations shall be designated as the first business day after all of the following events have taken place;

(a) The customers' valid billing information is received;

(b) The site is ready for service (cleared, graded, staked, etc.);

(c) The service connection fee is paid;

(d) The electrical inspection is received;

(e) The security deposit is paid;

(f) All mainline primary and transformers are installed;

(g) Any required public space excavation is completed;

(h) Any delays due to weather emergencies do not intervene;

(i) All right-of-way and permits are obtained; and

(j) In the case of net metering facilities, all the applicable contract terms and conditions are met.

3602.16 The utility shall regularly report on its performance pursuant to Section 3602.14 every six (6) months. The report shall be submitted to the Commission forty-five (45) days following the reporting period, starting with the six (6) month reporting period following the EQSS's adoption in Title 15 of the DCMR.

3602.17 After four (4) Section 3602.16 reports have been submitted, the frequency of the reporting may be changed by the Commission.

3602.18 The Section 3602.16 report shall clearly state the total number of new residential service installation requests received during the relevant reporting period, and of the new residential installation service requests received, the percentage of new residential service connections that were completed in accordance with Section 3602.14.

3602.19 If the utility fails to meet the standard set in Section 3602.14, it shall be required to develop a corrective action plan.

3602.20 The corrective action plan shall describe the cause(s) of the utility's non-compliance with Section 3602.14, describe the corrective measure(s) to be taken to ensure that the standard is met or exceeded in the future, and set a target date for completion of the corrective measure(s).

3602.21 Progress on any current corrective action plans will be included in the utility's annual PIP report.

3602.22 The utility shall report the actual performance obtained during the reporting period in the annual PIP of the following year.

3603 RELIABILITY STANDARDS

3603.1 The electric utility shall implement a plan to improve the performance of the two (2) percent least performing feeders such that no feeder in the two

(2) percent least performing group shall repeat as a member of the two (2) percent least performing feeders following implementation of the plan.

3603.2 Individual feeder performance shall be determined using the utility's composite performance index.

3603.3 If the utility fails to comply with Section 3603.1, it shall be required to develop a corrective action plan.

3603.4 The corrective action plan shall clearly describe the cause(s) of the utility's non-compliance with Section 3603.1 (including an explanation as to why a particular feeder has remained on the list after the implementation of the plan in 3603.1), describe the corrective measure(s) to be taken to ensure that the standard is met or exceeded in the future, and provide a target date for completion of the corrective measure(s).

3603.5 The utility shall report on the progress of the corrective action plan in the Annual Consolidated Report submitted to the Commission.

3603.6 The utility shall continue the current annual PIP reporting of the worst performing (lowest two (2) percent) feeders (utility methodology) and corresponding corrective action plans, with the action taken in year 1 and the subsequent performance in year 2.

3603.7 The utility shall complete service restoration within twenty-four (24) hours following a non-major service outage.

3603.8 The utility shall report on the number and percentage of non-major service outages that extend beyond the twenty-four (24) hour standard and the causes for these extended service outages.

3603.9 The report drafted pursuant to Section 3603.8 shall be included in the annual PIP report on reliability data.

3603.10 The utility shall not exceed the benchmark levels established for the following indices: System Average Interruption Frequency Index (SAIFI), System Average Interruption Duration Index (SAIDI), and Customer Average Interruption Duration Index (CAIDI).

3603.11 The benchmark levels for SAIFI, SAIDI, and CAIDI shall be calculated as follows:

(a) For 2006, the benchmark calculations shall take into account three (3) full years (2003-2005) of the utility's OMS data;

(b) For 2007, the benchmark calculations shall take into account four (4) full years (2003-2006) of the utility's OMS data;

(c) Thereafter, five (5) full years of OMS data shall be used in calculating the benchmarks;

(d) The calculations shall exclude OMS data from major event days consistent with the I.E.E.E. 1366, Guide for Electric Power Distribution Reliability Indices standard as approved and as may be revised;

(e) The utility shall calculate its SAIFI, SAIDI, and CAIDI for each year in accordance with the requirements established in Sections 3603.11(a)-(c);

(f) The utility shall calculate the average and standard deviation for each of the SAIFI, SAIDI and CAIDI calculations; and

(g) The benchmark shall be calculated by adding two (2) standard deviations to the average value.

3603.12 Applying the Section 3603.11 methodology, the SAIFI, SAIDI and CAIDI benchmarks for 2006 shall be as follows:

(a) SAIFI = 1.09;

(b) SAIDI = 3.52 hours; and

(c) CAIDI = 3.72 hours.

3603.13 The SAIFI, SAIDI and CAIDI benchmarks shall be reset annually using a rolling five (5) year average.

3603.14 If the utility fails to comply with Section 3603.10, it shall be required to develop a corrective action plan.

3603.15 The corrective action plan shall clearly describe the cause(s) of the utility's deterioration in performance and failure to comply with Section 3603.10, describe the corrective measure(s) to be taken to ensure that the standard is met or exceeded in the future, and provide a target for completion of the corrective measure(s).

3603.16 The utility shall report on the progress on the corrective action plan in the annual PIP report submitted to the Commission.

3603.17 The utility shall also, per the orders of the Commission, continue current requirements of reporting annual reliability indices of SAIFI, SAIDI and CAIDI (with and without major events) in the annual PIP of the following year.

3604 BILLING ERROR NOTIFICATION

3604.1 The electric utility and all electricity service providers must inform the Commission's Office of Engineering and the Office of the People's Counsel when a billing error has affected 100 or more customers or the number of affected customers is equal to or more than two (2) percent of the electric utility's or electricity service provider's customer base. The electric utility and electricity service providers with a customer base of less than 100 customers shall report errors when two (2) or more customers are affected.

3604.2 The electric utility and all electric service providers shall file an initial billing error notification within one (1) business day of discovering or being notified of the error. After submitting the initial notification, the electric utility and electric service providers must submit a follow-up written report within fourteen (14) calendar days and a final written report within sixty (60) calendar days.

3604.3 The initial billing error notification shall be sent by electronic mail to the Commission's Office of Engineering and to the Office of the People's Counsel.

3604.4 The initial billing error notification shall contain the following information:

(a) The type(s) of billing error(s) found;

(b) The date and time the billing error(s) was discovered;

(c) How the electric utility or electric service provider discovered the error(s); and

(d) The approximate number of customers affected.

3604.5 The follow-up written report shall contain the following information:

(a) The type(s) of billing error(s);

(b) The date and time of the billing error(s);

(c) The number of customers affected;

(d) The cause of the error and status of any and all corrective action(s) taken; and

(e) The timeline for completing any and all other required corrective action(s).

3604.6 The final written report shall contain the following information:

(a) The type(s) of billing error(s);

(b) The date and time of billing error(s);

(c) The number of customers affected and the dollar amount involved;

(d) The duration of the billing error(s);

(e) The corrective action(s) and preventative measure(s) taken; and

(f) The lessons learned, if any.

3604.7 Upon receipt of the final written report, the Commission shall determine whether any further investigation is necessary.

3699 DEFINITIONS

3699.1 When used in this chapter, the following terms and phrases shall have the meaning ascribed:

Abandoned Calls – a call received from a customer that a customer terminates after the customer selects the menu option and is placed in the queue, but before the call is answered by the utility customer representative or any other automated response system.

Call Abandonment Rate – the annual number of calls to the utility's call center or business office that were abandoned, divided by the total number of calls that the company received.

Call Answering – a process whereby a utility representative, voice response unit, or other automated operator system is ready to render assistance or ready to accept information necessary to process a customer's call. An acknowledgement that the customer is waiting on the line does not constitute an answer.

Composite Performance Index (CPI) – a measure of feeder performance that combines, in a single number, four measures of distribution feeder performance: (1) number of interruptions, (2) number of customer hours of interruption, (3) system average frequency of interruption, and (4) system average interruption duration.

Customer Average Interruption Duration Index (CAIDI) – a performance index that measures the average time required to restore service to the average customer experiencing a sustained interruption per sustained interruption. The measure is calculated by dividing the sum of all customer interruption durations (converted into hours) by the total number of customer sustained interruptions.

Interruption duration – the period of time, truncated or rounded to the nearest minute, during which a sustained interruption occurs.

Major service outages – customer interruption occurrences and durations during time periods when more than 10,000 of the electric utility's District of Columbia customers are without service and the restoration effort due to this major service outage takes more than twenty-four (24) hours.

Manhole fire – incident in which flame is visible at holes in the manhole cover or around the cover's edge and the cover remains seated in its frame.

Manhole explosion – incident in which a release of energy from the manhole occurs and one or more manhole covers are dislodged from their respective frames, or other debris, such as cement or dirt, is projected into the air.

Momentary interruption – loss of electric service of a duration limited to the time required to restore electric service by automatic and supervisory-controlled switching operation or by manual switching at a location where an operator is immediately available. If the automatic, supervisory-controlled or manual switching is not completed within five (5) minutes of the initial loss of service, the interruption is considered a sustained interruption.

Non-major service outages – customer service outages caused by the failure of devices such as breakers, fuses, feeder lines, substation equipment, etc., lasting over eight (8) hours, regardless of how many customers are affected; or customer service outages affecting over 100 but less than 10,000 customers, regardless of duration.

Outside assistance – resources not routinely used by a utility for service restoration. Resources transferred among utility operating areas are not considered outside assistance.

Power quality – the characteristics of electric power received by the customer, with the exception of sustained interruptions and momentary event interruptions. Characteristics of electric power that detract from its quality include waveform irregularities and voltage variations, either prolonged or transient.

Smoking manhole – a manhole incident in which smoke, but no visible flame, is escaping from holes in the cover or around the cover's edge.

Sustained interruption – loss of electric service not classified as a momentary interruption.

System Average Interruption Duration Index (SAIDI) – a performance index that measures the average time customers are interrupted and is calculated by dividing the sum of all customer interruption durations (converted into hours) by the total number of customers served.

System Average Interruption Frequency Index (SAIFI) – a performance index that measures the average frequency of interruptions per customer and is calculated by dividing the total number of customer sustained interruptions by the total number of customers served.

Telephone service factor – the percentage of calls answered within a specified amount of time. For example, if the service level time is set at thirty (30) seconds and 70 percent of calls are answered in less than 30 seconds, then the telephone service factor is 70.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING
and
Z.C. ORDER NO. 06-23
Z.C. Case No. 06-23
(Text Amendments – 11 DCMR)
(Eating Establishment Definitions)
July 30, 2007

The Zoning Commission for the District of Columbia (the "Commission"), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code § 6-641.01), having held a public hearing and referred the proposed amendments to the National Capital Planning Commission ("NCPC") for a 30-day period of review pursuant to § 492 of the District of Columbia Charter, hereby gives notice of the adoption of amendments to Chapters 1, 6, 7, 8, 9, 13, 14, 17, 18, 19, and 31 of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations ("DCMR")). The amendments revise the definition of "restaurant," change the name of the "fast food restaurant" use to "fast food establishment," include criteria within the definition of "fast food establishment" that can be readily determined as being satisfied or not as part of the Zoning Administrator's review of building permit plans, and recognize a new use, to be called a "prepared food shop."

A Notice of Proposed Rulemaking was published in the *D.C. Register* ("*DCR*") on June 22, 2007, at 54 *DCR* 6093 for a 30-day notice and comment period.

The Commission took final action to adopt the amendments at a public meeting held on July 30, 2007.

This final rulemaking is effective upon publication in the *D.C. Register*.

Existing Regulations

Since 1986, the Zoning Regulations have distinguished between restaurants and fast food restaurants by defining "restaurant" and "restaurant, fast food" separately, and treating the fast food use more restrictively. Restaurants are allowed as a matter-of-right in all C Districts. Fast food restaurants are prohibited in the C-1 District, require special exception approval in the C-2-A District, and have additional requirements for matter-of-right approval in the C-2-B and C-2-C Districts.

The current means of distinguishing fast food restaurants has largely become outdated. The definitions distinguish "restaurants" from "restaurants, fast food" by means of calculations in the fast food definition regarding queuing area, pre-prepared food, and disposable tableware. The ever-evolving business model in the restaurant industry allows for increasing flexibility in layout, service style, and food preparation. This has led to cases where establishments considered fast food restaurants by the Advisory Neighborhood Commission ("ANC") were

granted matter-of-right approval in the C-2-A District by the Department of Consumer and Regulatory Affairs ("DCRA") because they did not fall within the existing definition of "restaurant, fast food."

Description of Text Amendments

The proposed amendments would revise the definition of "restaurant," change the name of the "restaurant, fast food" use to "fast food establishment," include criteria within the definition of "fast food establishment" that can be readily determined as being satisfied or not as part of the Zoning Administrator's review of building permit plans, and recognize a new use, called a "prepared food shop."

Relationship to the Comprehensive Plan

The amendments are not inconsistent with the goals of the District Elements of the Comprehensive Plan for the National Capital and are consistent with §§ LU 2.3-A and LU 2.4 B which advocate changing the Zoning Regulations to better govern commercial uses and protect residential neighborhoods. The proposed changes further the goals of comprehensive plan by providing clarity in land use designations and facilitating easier enforceability in the regulations.

Public Hearing and Proposed Action

This rulemaking was initiated by petition filed by ANC 6A dated May 12, 2006 that included suggested text. The Commission set down the case for public hearing at its meeting of October 16, 2006, and authorized the Office of Planning ("OP") and the Office of the Attorney General to revise the text as needed to clarify the intent of the proposal. A somewhat revised text was shared with representatives of the Petitioner, who agreed with most of the modifications proposed. The Commission held a public hearing on April 19, 2007. At this meeting, several parties suggested various changes to the text, including changes to the definitions of "fast food establishment" and "prepared food shop." The Commission requested OP to compile and address all of the written and oral comments prior to proposed action. In a report dated May 23, 2007, OP addressed 13 separate comments on the advertised text and made several minor changes to address them. These changes include removal of the term "cooking," increase in the number of seats allowed in a matter-of-right prepared food shop, and provide flexibility in the special exception provisions for fast food establishments.

The Commission took proposed action on June 11, 2007 to approve the text as amended in the Office of Planning supplemental report. A Notice of Proposed Rulemaking was published in the *D.C. Register* on June 22, 2007, at 54 *DCR* 6093, for a 30-day notice and comment period.

No comments were received.

The proposed rulemaking was also referred to the NCPC pursuant to § 492 of the District of Columbia Charter. NCPC, by report dated June 29, 2007, found that the proposed text amendments would not adversely affect the federal interests nor be inconsistent with the Federal Elements of the Comprehensive Plan.

The Office of the Attorney General has determined that this rulemaking meets its standards of legal sufficiency.

Final Action

The Commission took final action to adopt the rulemaking at its regularly scheduled public meeting on July 30, 2007. The Commission supports the amendments proposed by OP to address public comments on the advertised text.

The Commission finds that the proposed amendments to the Zoning Regulations are in the best interests of the District of Columbia, consistent with the purpose of the Zoning Regulations and Zoning Act, and not inconsistent with the Comprehensive Plan for the National Capital.

In consideration of the reasons set forth herein, the Zoning Commission hereby **APPROVES** the following amendments to the Zoning Regulations, Title 11 DCMR. Added wording is in **bold** and underlined, and deleted wording is shown in ~~strikethrough~~ lettering, except for Part D, which is all new text and therefore not annotated:

1. Section 199, Definitions, § 199.1, is amended as follows:

   (a) Insert the following new definitions in alphabetical order:

   Fast food establishment - a place of business, other than a "prepared food shop," where food is prepared on the premises and sold to customers for consumption and at least one of the following conditions apply:

   (a) The premises include a drive-through;

   (b) Customers pay for the food before it is consumed. One characteristic that would satisfy this element would be building permit plans that depict a service counter without seating unless the applicant certifies that the intended principal use is for a restaurant or grocery and that the counter is part of a carry out service that is clearly subordinate to that principal use; or

   (c) Food is served on/in anything other than non-disposable tableware. Characteristics that would satisfy this element include, but are not

limited to: the building permit plans do not depict a dishwasher or do depict trash receptacles in public areas.

A proposed or existing establishment meeting this definition shall not be deemed to constitute any other use permitted under the authority of these regulations, except that a restaurant, grocery store, movie theater, or other use providing carryout service that is clearly subordinate to its principal use shall not be deemed a fast-food establishment.

Prepared food – food that is assembled, but not heated by means other than microwave or toaster, on the premises of a prepared food shop.

Prepared food shop - a place of business that offers seating or carry out service, or both, and which is principally devoted to the sale of prepared food, non-alcoholic beverages, or cold refreshments. This term includes an establishment known as a sandwich shop, coffee shop, or an ice cream parlor.

(b) Delete the definition "Restaurant, fast food."

(c) Amend the definitions of "Drive-through", "Food delivery service," and "Restaurant" to read as follows:

Drive-through - a system designed to permit customers of a ~~restaurant~~, fast food **establishment** ~~restaurant~~, bank, dry cleaning or other establishment to obtain goods or services by driving through the property and conducting the transaction while the customer remains within a motor vehicle. The system has two (2) major parts: a vehicular queuing lane or lanes, and one (1) or more service locations where customers place orders or receive services or both. No part of this definition shall be construed to apply to a gasoline service station.

Food delivery service - a restaurant, ~~delicatessen~~ **prepared food shop**, or fast food **establishment,** ~~restaurant~~ in which the principal use is production ~~delivery~~ of prepared food for delivery ~~by motor vehicle~~ to customers located off the business premises. Seating and tables for customers may or may not be provided for on-premises consumption, but if present are clearly subordinate to the principal use of preparing food for delivery ~~delivering prepared food~~ to off-site customers. Any establishment that derives more than seventy-five percent (75%) of its sales from delivery orders will be considered a food delivery service in all cases. This definition does not include catering establishments.

Restaurant - a place of business **that does not meet the definition of a "fast food establishment" or "prepared food shop,"** where food, drinks or refreshments are prepared on the premises and sold to customers primarily for

consumption on the premises. ~~This term shall include but not be limited to an establishment known as a café, lunch counter, cafeteria, or other similar business, but shall not include a fast food restaurant. In a restaurant, a~~ Any facilities for carryout shall be clearly subordinate to the principal use of providing prepared foods for consumption on the premises.

2. Section 601, Uses as a Matter of Right (CR), § 601.1(i), is amended to read as follows:

(i) Private club, restaurant, **prepared food shop**, fast food ~~restaurant~~ **establishment**, or food delivery service, provided a fast food ~~restaurant~~ establishment~~,~~ or food delivery service shall not include a drive-through;

3. Chapter 7, COMMERCIAL DISTRICTS, is amended as follows:

(a) Section 701, Uses as a Matter of Right (C-1), is amended as follows:

(i) By amending § 701.4 (q) to read as follows:

(q) Restaurant, but not including a fast food ~~restaurant~~ **establishment**, ~~a drive-in restaurant,~~ or a food delivery service.

(ii) By Adding a new § 701.4 (aa) to read as follows:

(aa) Prepared food shop, with no more than 18 seats for patrons and no drive-through.

(b) Section 704, Special Exceptions: General (C-1), § 704.1, is amended to read as follows:

704.1 The following uses as specified in §§ 706 through ~~711~~ **712** shall be permitted as special exceptions in a C-1 District if approved by the Board of Zoning Adjustment under § 3104.

(c) By adding a new § 712 to read as follows:

712 PREPARED FOOD SHOP

712.1 A Prepared Food Shop with more than eighteen seats for patrons shall be permitted in a C-1 District as a special exception if approved by the Board of Zoning Adjustment under § 3104 provided that no drive-through shall be permitted.

(d) Section 721, Uses as a Matter of Right (C-2), is amended as follows:

(i) Subsection 721.3 (s) is amended by striking the phrase "fast food restaurant" and inserting the phrase "fast food establishment" in its place.

(ii) By adding a new § 721.3 (t) to read as follows:

(t) Prepared food shop, except that in a C-2-A District, a prepared food shop with greater than twelve seats for patrons shall be only be permitted by special exception pursuant to 11 DCMR 712.

(e) Section 733, Fast Food Restaurants in C-2-A Districts is amended as follows:

(i) By striking the phrase "fast food restaurant" wherever it appears and inserting the phrase "fast food establishment" in its place.

(ii) By adding a new § 733.12 to read as follows

733.12 An applicant for special exception under this section may request the Board to modify the conditions enumerated in §§ 733.2 through 733.4; provided that the general purposes and intent of this section are complied with.

(f) Sections 741.3 (c) and 743.4 are amended by striking the phrase "fast food restaurant" wherever it appears and inserting the phrase "fast food establishment" in its place.

(g) Subsections 742.4, 752.4, and 761.6 are amended by striking the phrase "fast food restaurant, delicatessen, or carryout" and inserting the phrase "fast food establishment" in its place.

4. Chapter 8, INDUSTRIAL DISTRICTS, §§ 801.10 and 821.5 are amended by striking the phrase "fast food restaurant, delicatessen, or carryout" and inserting the phrase "fast food establishment" in its place.

5. Chapter 9, WATERFRONT DISTRICTS, Section 901, Uses as a Matter of Right (W), § 901.1 (j), is amended to read as follows:

(j) Private club, restaurant, fast food ~~restaurant~~ **establishment**, **Prepared food shop,** or food delivery service, provided that a fast food ~~restaurant~~ **establishment**, or food delivery service shall not include a drive-through;

6. Chapter 13, NEIGHBORHOOD COMMERCIAL OVERLAY DISTRICT is amended as follows:

(a) Section 1302 Designated and Restricted Uses, § 1302.5, is amended to read as follows:

1302.5 Restaurants, fast food ~~restaurants~~ **establishments**, ~~delicatessens, carry-outs, and similar eating or drinking establishments~~ **and prepared food shops** shall be subject to the following limitations:

(b) Section 1307, Woodley Park Neighborhood Commercial Overlay District, § 1307.5, is amended to read as follows:

1307.5 No hotel, inn, or fast food ~~restaurant~~ **establishment** shall be permitted in the WP Overlay District.

(c) Section 1309, Eight Street Southeast Neighborhood Commercial Overlay District, § 1309.4, is amended to read as follows:

1309.4 For purposes of § 1302.5, restaurants, fast food ~~restaurants~~ **establishments**, ~~delicatessens, carry-outs, and similar eating or drinking establishments~~ **and prepared food shops**, shall be subject to the following limitations: these uses shall occupy no more than fifty percent (50%) of the linear street frontage within the ES Overlay District, as measured along the lots that face designated roadways in the ES Overlay District of which up to half (1/2) of the fifty percent (50%) of the linear street frontage shall only be occupied by fast food ~~restaurants~~**establishments**.

(d) Section 1320, H Street Northeast Neighborhood Commercial Overlay District (HS). § 1320.4(c), is amended to read as follows:

(c) Fast food ~~restaurant~~ **establishment** or food delivery service provided:

7. Chapter 14, REED-COOKE OVERLAY DISTRICT, Section 1401, Use Provisions, § 1401.1 (c) is amended to read as follows:

(c) Restaurant or fast food ~~restaurant~~ **establishment;**

8. Chapter 17, DOWNTOWN DEVELOPMENT OVERLAY DISTRICT, is amended as follows:

(a) Subsection 1703.3(b) is amended to read as follows:

1703.3 Each new or altered building that faces or abuts a public street shall devote all of the ground floor leasable space to the retail and service uses listed in § 1710 or the arts and arts-related uses listed in § 1711; provided:

...

(b) Not more than twenty percent (20%) of the required gross floor area on the ground floor shall be occupied by banks, loan offices, other financial institutions, travel agencies, or other transportation ticket offices, ~~delicatessens~~ **prepared food shops**, fast food ~~restaurants~~ **establishments**, printing or fast copy services, newsstands, dry cleaners, or any combination thereof;

(b) Subsections 1710.1 (v) and 1732.2 (ee), are amended by striking the phrase "fast food restaurant" where it appears and inserting the phrase "fast food establishment" in its place.

9. Chapter 18, SOUTHEAST FEDERAL CENTER OVERLAY DISTRICT, Section 1807.2 Preferred Uses, § 1807.2 (fff), is amended as follows:

(fff) Restaurant~~, not including drive-in or fast food~~;

10. Chapter 19, UPTOWN ARTS-MIXED USE (ARTS) OVERLAY DISTRICT, §1907.1 (o) is repealed.

11. CHAPTER 31, BOARD OF ZONING ADJUSTMENT RULES OF PRACTICE AND PROCEDURE, § 3104, Special Exceptions, is amended by adding the following to the list of special exceptions set forth in the table in § 3104.1.

TYPE OF SPECIAL EXCEPTION	ZONE DISTRICT	SECTIONS IN WHICH THE CONDITIONS ARE SPECIFIED
Prepared food shop with greater than eighteen seats for patrons	C-1, C-2-A	712

Vote of the Zoning Commission taken at its public meeting on June 11, 2007, to **APPROVE** the proposed rulemaking: **4-0-1** (Anthony J. Hood, John G. Parsons, Michael G. Turnbull, and Gregory N. Jefferies in favor, Carol J. Mitten, having not participated, not voting).

This Order was **ADOPTED** by the Zoning Commission at its public meeting on July 30, 2007, by a vote of **4-0-1** (Anthony J. Hood, Gregory N. Jefferies, John G. Parsons, and Michael G. Turnbull to adopt; Carol J. Mitten, having not participated, not voting).

In accordance with the provisions of 11 DCMR § 3028.9, this Order shall become effective upon publication in the *D.C. Register*; that is, on _____.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING
and
Z.C. ORDER NO. 06-23
Z.C. Case No. 06-23
(Text Amendments – 11 DCMR)
(Eating Establishment Definitions)

The full text of this Zoning Commission order is published in the "Final Rulemaking" section of this edition of the *D.C. Register*.